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FISCAL IMPACT STATEMENT

LS 7092

BILL NUMBER: HB 1311

NOTE PREPARED: Jan 19, 2015

BILL AMENDED:

SUBJECT: Alcoholic Beverage Issues.

FIRST AUTHOR: Rep. Clere

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: This bill contains the following provisions:

1. Raises the barrel limit for a small brewery from 30,000 barrels a year to 90,000 barrels a year.
2. Establishes requirements for farmers' markets where wine or beer are sold.
3. Provides that the holder of a farm winery permit or a small brewer's permit that provides only wine or beer by the glass at a festival, fair, or other temporary location and does not provide food: (1) is exempt from the sanitation requirements governing food establishments; and (2) may not be subject to local government licensure, registration, or certification.
4. Allows a small brewer to sell the brewer's beer to consumers for carryout at a farmers' market in a quantity of not more than 576 ounces per consumer at any one time.
5. Allows a small brewer, with the approval of the Alcohol and Tobacco Commission (ATC), to participate in a trade show or an exposition for not more than 45 days in a calendar year.
6. Provides that small brewers that sell beer by the glass are not subject to the ATC's minimum food requirements.
7. Allows a small brewer to store or condition beer in a building separate from the brewery that is owned or leased by the brewer.
8. Provides that to qualify for an artisan distiller's permit, a person must hold at least a majority ownership interest (instead of 100% ownership interest) in the entity that holds a farm winery, brewer's, or distiller's permit.
9. Provides that a township or county (in addition to a city or town) may not regulate a liquor retailer's business or affect a person's ability to hold a liquor retailer's permit.
10. Repeals a provision requiring the clerk of a city or town to certify and mail to the ATC an ordinance regulating a liquor retailer in violation of the law.

Effective Date: July 1, 2015.

Explanation of State Expenditures: *Summary* - Several of the bill's provisions may require the ATC to make changes in the way it administers, approves, and regulates microbrewery permits. (There are currently over 100 microbreweries in Indiana.) The provision exempting microbreweries from the minimum food requirement could potentially reduce the ATC's enforcement costs. Overall, the bill's requirements are within the ATC's routine administrative functions and should be able to be implemented with no additional appropriations, assuming near customary agency staffing and resource levels.

In addition, the provision exempting certain beer and wine sales from food sanitation requirements may reduce costs incurred by the State Department of Health.

Additional Information -

Minimum Food Requirement: Under the bill, microbreweries would no longer have to furnish the minimum food requirements. To the extent that the Indiana State Excise Police (the law enforcement division of the ATC) spend less time and resources enforcing the minimum food requirement at microbreweries, enforcement costs could decrease.

Under current law, microbreweries are required to have food service available at all times for at least 25 people if they serve beer by the glass. Minimum food service consists of hot soups, hot sandwiches, coffee, milk, and soft drinks.

Participation in Trade Shows and Expositions: The bill requires the ATC to approve microbreweries' requests to participate in trade shows and expositions. This provision could increase the ATC's administrative costs, depending on the number of requests it receives.

Beer Stored and Conditioned in a Separate Building: The bill allows a microbrewery to store and condition its beer in a building separate from the brewery. The ATC could incur additional costs if it conducts additional inspections of buildings owned or leased by microbreweries.

Ordinance Sent to ATC: The bill repeals the requirement for a city or town to mail to the ATC an ordinance regulating a liquor retailer. This provision could potentially reduce the ATC's expenditures by a nominal amount, depending on the number of such ordinances that are currently being sent to the ATC. Current law requires the ATC to pay the city or town clerk \$1 for preparing and sending the ordinance.

Sanitation Requirements Governing Food Establishments: The bill provides that farm wineries and microbreweries selling only wine and beer by the glass at a festival, fair, or similar event are not subject to sanitation requirements governing food establishments. This provision could reduce costs of the State Department of Health (ISDH) if it conducts fewer inspections. The amount of total cost savings would likely be small, but would depend on the actual reduction in the number of inspections conducted by the ISDH.

Explanation of State Revenues: *Summary* - Some provisions could potentially increase microbreweries' sales. If microbreweries' sales increase to the extent that total alcoholic beverage sales in the state increase, revenue from the Alcoholic Beverage Tax could increase. Similarly, if microbreweries' sales increase to the extent that total consumer purchases increase, Sales Tax revenue could also increase. However, any increase in revenue is indeterminable and would likely be relatively small.

The Alcoholic Beverage Tax on beer is equal to \$0.115 per gallon. Revenue is deposited in the state General Fund (\$0.04), Post War Construction Fund (\$0.0475), Enforcement and Administration Fund (\$0.0075), and Addiction Services Fund (\$0.02). Fifty percent of the General Fund distribution is allocated to cities and towns according to a formula based on population.

Sales Tax revenue is deposited in the General Fund (98.848%), Motor Vehicle Highway Account (1%), Commuter Rail Service Fund (0.123%), and Industrial Rail Service Fund (0.029%).

Additional Information -

Alcohol Sales at Farmers' Markets: The bill allows microbreweries to sell beer for carryout at farmers' markets under certain restrictions. (Farm wineries are allowed to sell wine at farmers' markets under current law.) To the extent that this provision increases alcoholic beverage sales, revenue from the Alcoholic Beverage Tax and Sales Tax could increase.

Microbrewery Manufacturing Limit: The bill increases the amount of beer a microbrewery may manufacture each year from 30,000 barrels to 90,000 barrels. If the provision causes an increase in total beer sales, revenue from the Alcoholic Beverage Tax and Sales Tax may increase. The amount of increased tax revenue is indeterminable, but will ultimately depend on the extent of the increase in total sales in the state.

Participation in Trade Shows and Expositions: The bill allows microbreweries to participate in a certain number of trade shows and expositions at which beer may be promoted and sold. If this provision increases total alcoholic beverage sales, revenue from the Alcoholic Beverage Tax and Sales Tax could increase. The state revenue increase is indeterminable, but would likely be small.

Explanation of Local Expenditures: *Sanitation Requirements Governing Food Establishments:* This provision could reduce expenses incurred by local health departments to the extent that they conduct fewer inspections of vendors at fairs, festivals, and other events. However, the total amount of cost savings is indeterminable.

Explanation of Local Revenues: *Ordinance Sent to ATC:* Cities and towns would no longer be required to send a copy of certain ordinances (as described in IC 7.1-3-9-6) to the ATC and as a result, would no longer receive the fee from the ATC. However, this provision is not expected to have a significant fiscal impact on cities and towns.

State Agencies Affected: ATC, ISDH.

Local Agencies Affected: Cities and towns, local health departments.

Information Sources: ATC active permit list, August 2014.

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